



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 601-00
26 January 2001

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you were discharged from the Navy by reason of physical disability on 22 October 1992, with a 10% rating for very minor, bilateral elbow and knee conditions, which were rated by analogy to arthritis. Conditions of your left wrist and right foot were classified in category III, i.e., not unfitting or contributing to the unfitting conditions. The Department of Veterans Affairs (VA) rated your elbow conditions at 0%, knees at 10% each, the right foot at 10%, and added a 10% rating for ringing in your ears, for a combined rating of 40% effective from 23 October 1992. The combined rating was increased to 50% from 26 June 1997.

The fact that the Department of Veterans Affairs (VA) awarded you a combined rating of 40% effective the day following your discharge is not probative of the existence of error or injustice in your record, because the VA awards disability ratings without regard to the issue of fitness for military duty. As you have not demonstrated that the tinnitus or right foot condition rendered you unfit for duty, or that you were entitled to a combined rating of 30% or more for your knee and elbow conditions, which were rated at a combined 20% by the

VA, there is no basis for granting your request. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director